

In the Matter of the Arbitration Between

INLAND STEEL COMPANY)

AND)

UNITED STEELWORKERS OF AMERICA)
AND ITS LOCAL UNION 1010)
_____)

Grievance No. 27-P-2

Appeal No. 1354

Award No. 740

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on November 3, 1983. Pre-hearing briefs were filed on behalf of the respective parties and exchanged between them.

APPEARANCES

For the Company:

Mr. Robert B. Castle, Arbitration Coordinator, Labor Relations
Mr. Allan Ostling, Assistant Superintendent, Assigned Mechanical Maintenance
Mr. Henry J. Collins, Assistant Superintendent, Plant 2 Mills
Mr. Terence P. Laird, General Foreman, Mechanical, 12" Bar Mill
Mr. Phil Jaynes, Senior Safety Engineer, Safety
Mr. Marion M. Roglich, Coordinator, Labor Relations

For the Union:

Mr. Thomas L. Barrett, Staff Representative
Mr. Joseph Gyurko, Chairman, Grievance Committee
Mr. Dennis Shattuck, Griever
Mr. Robert Gilbert, Assistant Griever
Mr. Salvador Aguilar, Safety Committeeman

Mr. J. Roque, Grievant
Mr. L. StöKke, Grievant
Mr. W. Märkovich, Grievant
Mr. A. Rodriguez, Grievant
Mr. D. Rodriguez, Grievant
Mr. R. Mutka, Grievant
Mr. T. Reel, Grievant
Mr. L. Gonzalez, Grievant

Arbitrator:

Mr. Bert L. Luskin

7
BACKGROUND

3

The Company constructed a 12" bar mill which was completed and placed into operation in July, 1969. The mill is a linear, high-speed, 18-stand continuous mill, consisting of 9 verticle and 9 horizontal roll stands. The sizes and shapes being rolled determine the use of the various stands. The verticle mills are located below floor level. The horizontal stands are located above floor level and are controlled from an elevated pulpit.

Billets are charged into a furnace and are heated to a temperature of between 2,000° and 2,300° F, depending upon the grade of steel. The heated billets are then fed into the mill. The first 8 stands are roughing mills which make large, rough reductions to the billets. The last 10 stands are the finishing mills. When a bar is finished and sheared, it is moved to a cooling bed.

During the early morning hours of July 10, 1980 ("A" turn), management was informed that horizontal stand No. 15 had lost a bearing. After some period of time,

supervision concluded that the repairs to stand No. 15 could be made while the remainder of the mill was in operation. The procedure would have involved shutting down stand No. 15, locking out its controls, and performing other functions which, in the opinion of management, would have made it possible to safely repair stand No. 15 while operations continued on the remaining stands.

Supervision selected a number of employees who were to be assigned to perform the mechanical repairs. Those employees were informed of the procedure that would be followed to accomplish the repairs while the remaining stands continued to operate. The Company determined that it would need a complement of five mechanics to perform the work. The first mechanics selected were permitted to view the operation. The procedures were explained to them, after which they requested and were granted relief from the job in accordance with the provisions of Article 14, Section 6.

A second group of mechanical employees were lined up and assigned to the operation. Those employees, when informed of the procedures that the Company intended to follow in effectuating the repairs to stand No. 15, also concluded that, in their opinion, it was unsafe to make the repairs while the mill was in operation. All of those employees who requested relief were granted relief. Several other employees who were thereafter asked to perform the work in question also requested and were granted relief from the assignment after they indicated that they felt a concern for their safety because of the possibility of injury that might result from an uncontrolled cobble. Several of the employees who had requested and were granted relief, were thereafter assigned to perform other mechanical operations in the mill. Ten employees who were granted relief from the assignment were sent home and did not work the shift in question.

On July 11, 1980, a first step oral complaint discussion was held. The grievants at that time contended that the job for which they requested relief was

unsafe within the meaning of Article 14, Section 6. They requested that they be paid for time lost from work after they had been sent home on July 10, 1980, and were refused assignment to other equal or higher-rated work. The oral grievance was denied. On August 17, 1980, a written grievance was filed. That grievance was also denied and was thereafter processed through the remaining steps of the grievance procedure. The issue arising therefrom became the subject matter of this arbitration proceeding.

Prior to the commencement of the hearing on November 3, 1983, the arbitrator, at the joint request of the parties, viewed the operations being performed in the 12" bar mill, and more particularly a number of the horizontal stands. Particular attention was paid to the No. 15 stand which had been the subject matter of this dispute. The arbitrator, accompanied by Union and Company officials, inspected the area, including the pulpit from which the mill is controlled, after which the hearing commenced and was concluded on that same day.

DISCUSSION

The parties agreed that the contractual provision in issue is the language appearing in Article 14, Section 6. That provision is hereinafter set forth as follows:

"ARTICLE 14

"SAFETY AND HEALTH

"SECTION 6. DISPUTES. An employee or group of employees who believe that they are being required to work under conditions which are unsafe or unhealthy beyond the normal hazard inherent in the operation in question shall discuss the complaint with his or their foreman. Following such discussion, the oral disposition form provided for in Step 1 of Section 3 of Article 6 shall be immediately prepared, signed, and distributed as therein provided. If the complaint remains unsettled, the employee or group of employees shall have the right to: (a) file a grievance in Step 3 of the grievance procedure for preferred handling in such procedure and arbitration or (b) relief from the job or jobs, without loss to their right to return to such job or jobs; and, at the Company's discretion, assignment to such other employment as may

Bars of smaller dimension travel at faster speeds than do bars of larger dimensions. The bars being run on the turn in question were approximately 2 1/8 inches in diameter. Those bars were of fairly large gauge material and were less flexible and less cobble-prone than bars of a smaller gauge. Bars traveling through stand 15 would move at a slower rate of speed than the movement of a bar at the final finishing stands.

There can be no question but that members of management made a good faith determination to continue to operate the mill while stand 15 was being repaired. They sincerely believed that the safety measures they had taken would have reduced the possibility and probability of injury to the mechanics to a degree where the repairs could not be considered to be "unsafe and unhealthy beyond the normal hazard inherent in the operation." By the same token, the Company conceded that the mechanics who had asked to be relieved from performing the repairs while the mill was in operation had made a good faith determination in the honest belief that the assignment in question was "unsafe or unhealthy beyond the normal hazard inherent in the operation." In essence, the mechanics and supervision made their respective decisions based upon what they sincerely believed to be a reasonable exercise of judgment.

Article 14, Section 6, has been made the subject of numerous awards in the steel industry where the arbitrators have been called upon to interpret and apply identical contractual provisions under different and varying sets of facts and circumstances. A mere good faith determination on the part of an employee who asks to be relieved, does not necessarily mean that he is entitled to be compensated for earnings that he was caused to lose as a result thereof when he was not reassigned after invoking the safety and health provision of the Contract.

The mill in question was constructed and became operational in July, 1969. During the eleven-year period that the mill was in operation prior to the incident which occurred in July, 1980, there has never been an occasion when the Company ever

be "off limits" when the mill is in operation. It is evident, however, that management concluded that, with the introduction of the safety measures (including the positioning of a safetyman in the pulpit, the reduction in speed of the mill, the size of the bars being run, the erection of a shield, the positioning of safetyman in the area of stand No. 15, and the locking out of stands 15 and 16), the Company believed that safety measures had been taken that would have reduced the possibility and probability of harm or injury to the mechanics to the degree where the repair work to be performed could not be considered to have been unsafe or unhealthy "beyond the normal hazard inherent in the operation."

The Company contended that Article 14, Section 6, has been interpreted by a number of arbitrators at Inland Steel (including Arbitrators Cole and Kelliher, and this arbitrator), to mean that a mere increase in hazards would not necessarily constitute or create a condition whereby the task to be performed becomes "unsafe or unhealthy beyond the normal hazard inherent in the operation."

As a general rule, cobbles are unpredictable. They are dangerous to the health, safety and well-being of anyone working in a position where there is a possibility or probability of being struck by a cobble. Cobbles occur when a bar leaves the mill path, for a number of reasons, instead of properly threading through the mill stands. Under normal circumstances, when an operator sees a cobble occurring, he makes no effort to stop the mill since the movement of the cobble would be unpredictable. The cobble may fall to the floor or it may compress itself into a smaller area. If that is allowed to happen, it becomes a relatively simple matter to stop the mill and remove the malformed bar. If the cobble does not exit, the mill may have to be stopped and the cobble may have to be cut into sections, thereby permitting its removal from the mill.

The Company conducted a review of all of the problems which it believed had to be resolved before the repairs could be made while the mill remained in operation. Following a series of conferences, the Company concluded that the repairs could safely be made under the following circumstances. The mill speed was to be reduced (at stand No. 15) to 9.4 miles per hour. A shield of 3/4 inch steel plate, four feet high and eight feet long, was to be erected to provide a protective barrier for the mechanics who would be making the repairs. The shield was to be positioned and welded at a point where it would have been four feet above the height at which a bar would be traveling through the mill. A safetyman and a mill foreman were to be placed in the operator's pulpit at a point where they would overlook stand 15. Two foremen and a safetyman would be positioned in the area where the work was to be performed. In addition to locking out stand 15, stand 16 would also be locked out. Additionally, whenever a section change was to take place, everyone in the area was to be removed until such time as the section change could be completed. Two section changes were actually made during the turn in question. Two safety meetings were held. Procedures were outlined and explained, and were accepted by mechanical foremen, as well as by a senior safety engineer. The operator in the pulpit and the safetyman who was situated at a lock-out button were instructed to push the button at the first sign of an impending cobble. A test was conducted, and the Company concluded that a bar leaving stand 14 could be stopped within five to six feet after the controls were activated.

There is evidence in the record that during the course of mill operations employees are not permitted on the mill floor except under special and accepted sets of facts and circumstances.

There is evidence in the record that the Company, at all times, expressed its position that for safety reasons it was advisable that the mill area be considered to

be available in the plant; provided, however, that no employee, other than communicating the facts relating to the safety of the job, shall take any steps to prevent another employee from working on the job. Should either the Management or the arbitrator conclude that an unsafe condition within the meaning of this Section existed and should the employee not have been assigned to other available equal or higher-rated work, he shall be paid for the earnings he otherwise would have received.

"The arbitrator shall have authority to establish rules of procedure for the special handling of grievances arising under this Section 6.

"It is recognized that emergency circumstances may exist and the local parties are authorized to make mutually satisfactory arrangements for immediate arbitration to handle such situations in an expeditious manner."

The stand 15 gear reduction which had lost the bearing is located approximately fifteen to twenty feet from the mill path. The Company was faced with the problem of attempting to make the repairs while the mill was in operation in a manner which would have complied with the requirements set forth in Article 14, Section 6.

Stand 15 was to be shut down during the repairs, and the controls were to be locked out. The Company, therefore, intended to comply with Safety Rule 24 which requires that machinery to be worked on must be locked out.

It should be noted at this point that when a similar problem developed on a vertical mill, the Company had locked out the stand and had instituted repairs while the mill was in operation. The fact situation, however, is not comparable to the fact situation in this case since vertical mills operate below the floor level and persons making repairs to a vertical stand would not be subject to possible harm or injury resulting from a cobble.

The problem that faced the Company in these circumstances was to find a means whereby the repairs could be effectuated with stand 15 shut down and the remainder of the mill in operation, without imposing a hazard to the mechanics that would be considered to be "unsafe or unhealthy beyond the normal hazard inherent in the operation in question....."

ordered, directed or requested mill mechanics to perform repairs to a horizontal stand while the mill continued to operate. Although it is relatively unusual for a stand to go down for repairs (as did stand 15) during the course of an operating turn, it is not unheard-of. On each and every occasion over the eleven-year period of operation of the mill in question, the Company has never attempted to make repairs to a horizontal stand while the mill continued to operate.

What is conceded is that the Company has, at all times, made every effort possible to consider the mill area as being "off limits" while the mill was in operation, primarily because of the possibility of an employee or employees being struck by a cobble. This is the first instance when members of supervision concluded that repairs could be made to a horizontal stand while the mill continued to operate. ;

While the Company did take some extraordinary measures to provide for the safety and well-being of the mechanics, there can be no question but that the assignment generated a degree of fear and concern on the part of some of the mechanics based upon the unusual nature of the assignment. Despite the safety precautions taken by the Company, the assignment constituted much more than a mere degree of increased risk on the part of the assigned mechanics.

This arbitrator would agree with the opinions expressed by Arbitrator Cole in his decision No. 464, that a mere increase in the hazards of a job above what they were in the past, does not automatically make that job unsafe or unhealthy beyond the normal hazard inherent in the operation. Arbitrator Cole found in that case that there would have to be a "degree of danger which warrants an employee in declining to work at all under the enlarged risks" before the safety and health provision could become applicable.

This arbitrator would agree that a mere increase in risks or hazards would not necessarily result in the application of the procedures set forth in Article 14. The Company in this case adopted a procedure which had never been exercised for a period

of some eleven years during which the mill was in operation. The Company proposed, for the first time, to make repairs to a horizontal stand while the mill continued to operate. Despite all of the good faith precautions taken by the Company, the repairs would have required the mechanics to work under conditions which were, in the opinion of the arbitrator, "unsafe or unhealthy beyond the normal hazard inherent in the operation in question." Under those circumstances, the provisions of Article 14, Section 6, became applicable.

The Company complied with the first portion of that provision when it granted a number of mechanics relief from the assignment. However, on the basis of the facts as they existed in this case, the Company was required to provide those persons relief from the job or jobs without causing the employees involved a loss in earnings. Since the grievants in this case were relieved from the job and were not assigned to other work, and since an unsafe condition within the meaning of Article 14, Section 6, existed, the grievants were entitled to be compensated for the earnings which each of them would otherwise have received.

For the reasons hereinabove set forth, the award will be as follows:

AWARD NO. 740

Grievance No. 27-P-2

The grievance is hereby sustained. Each of the grievants should be compensated for the earnings each grievant would have otherwise received if each of them had been permitted to continue to work on the turn in question on July 10, 1980.

Burt L. Luskin
ARBITRATOR

December 16, 1983

CHRONOLOGY

Grievance No. 27-P-2

Grievance filed	August 19, 1980
Step 3 hearing	December 18, 1980
Step 3 minutes	May 8, 1981
Step 4 appeal	May 18, 1981
Step 4 hearing	October 13, 1983
Step 4 minutes	October 26, 1983
Appeal to Arbitration	October 26, 1983
Arbitration hearing	November 3, 1983
Award issued	December 16, 1983